

AMENDED IN ASSEMBLY APRIL 8, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2781

Introduced by Assembly Member Cunneen

February 22, 1996

~~An act to amend Sections 798.56a and 1812.601 of, and to repeal Section 798.29 of, the Civil Code, relating to~~ *An act to amend Section 798.56a of the Civil Code, relating to mobilehomes.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2781, as amended, Cunneen. Mobilehomes.

~~(1) Existing law requires the management of a mobilehome park to post a prescribed sign by the Department of Housing and Community Development regarding mobilehome ombudsmen.~~

~~This bill would repeal this requirement.~~

~~(2)~~ Under existing law, legal owners and holders of junior liens against mobilehomes in mobilehome parks are entitled to sell the mobilehome within the park, upon the default of the registered owner, by either foreclosing the security interest or requesting the mobilehome park management to terminate the tenancy and offering to reimburse the management's attorney's fees and costs in an action to evict the tenant. In either case, the right of the legal owner or lienholder to sell the mobilehome in the park is contingent upon payment of rent and satisfaction of other specified obligations.

This bill would revise and recast these provisions to provide that, upon receipt of the notice of termination of tenancy, the legal owner and each junior lienholder shall do at least one of the following: sell the obligation secured by the mobilehome to the management, as specified, foreclose on its security interest in the mobilehome if specified requirements are met, or request management to terminate the tenancy, as specified. It would also provide that the legal owner or junior lienholder may sell the mobilehome within the park to a third party and keep the mobilehome on the site within the park until it is sold only if specified requirements are met.

~~(3) Existing law generally defines the term “auction” for purposes of certain provisions of existing law regarding auctioneers.~~

~~This bill would exclude a warehouseman’s lien sale conducted pursuant to the Commercial Code from that definition.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 798.29 of the Civil Code is~~
2 ~~repealed.~~

3 ~~SEC. 2.—~~

4 *SECTION 1.* Section 798.56a of the Civil Code is
5 amended to read:

6 798.56a. (a) Upon receipt of the notice of
7 termination of tenancy pursuant to any reason provided
8 in Section 798.56, the legal owner and each junior
9 lienholder shall do at least one of the following:

10 (1) Offer to sell the obligation secured by the
11 mobilehome to the management for the amount
12 specified in its written offer. In that event, the
13 management shall have 15 days following receipt of the
14 offer to accept or reject the offer in writing. If the offer
15 is rejected, the person or entity that made the offer shall
16 have 10 days in which to exercise one of the other options
17 contained in this section and shall notify management in
18 writing of its choice.

1 (2) Foreclose on its security interest in the
2 mobilehome if the legal owner or junior lienholder
3 satisfies, within 60 days following receipt of, or no later
4 than 65 days after the mailing of, the notice of termination
5 of tenancy, all of the homeowner's responsibilities and
6 liabilities owing to the management for the 90 days
7 preceding the mailing of the notice of termination of
8 tenancy and then continues to satisfy them as they accrue
9 from the date of the mailing of that notice until the date
10 the mobilehome is resold. Satisfaction of the
11 homeowner's accrued or accruing responsibilities and
12 liabilities pursuant to this paragraph shall not cure the
13 default of the homeowner.

14 (3) Request management to pursue the termination of
15 tenancy against the homeowner and offer to reimburse
16 management for the reasonable attorney's fees and court
17 costs incurred by the management in that action. If this
18 request and offer is made, the legal owner or junior
19 lienholder shall reimburse the management the amount
20 of reasonable attorney's fees and court costs, as agreed
21 upon by the management and the legal owner or junior
22 lienholder, incurred by the management in an action to
23 terminate the homeowner's tenancy, on or before the
24 earlier of (A) the 60th calendar day following receipt of
25 written notice from the management of the aggregate
26 amount of those reasonable attorney's fees and costs or
27 (B) the date the mobilehome is resold.

28 (b) A legal owner or junior lienholder may sell the
29 mobilehome within the park to a third party and keep the
30 mobilehome on the site within the mobilehome park until
31 it is resold only if all of the following requirements are
32 met:

33 (1) The legal owner or junior lienholder notifies
34 management in writing of the intention to exercise either
35 option described in paragraph (2) or (3) of subdivision
36 (a) within 60 days following receipt of, or no later than 65
37 days after the mailing of, the notice of termination of
38 tenancy.

39 (2) Within 60 days following receipt of, or no later than
40 65 days after the mailing of, the notice of termination of

1 tenancy, the legal owner or junior lienholder commences
2 all repairs and necessary corrective actions so that the
3 mobilehome complies with park rules and regulations in
4 existence at the time the notice of termination of tenancy
5 was given as well as the health and safety standards
6 specified in Sections 18550, 18552, and 18605 of the Health
7 and Safety Code, and completes these repairs and
8 corrective actions within 90 calendar days of that notice,
9 or before the date that the mobilehome is sold, whichever
10 is earlier.

11 (3) The legal owner or junior lienholder complies with
12 the requirements of Article 7 (commencing with Section
13 798.70) as it relates to the transfer of the mobilehome to
14 a third party.

15 (c) For purposes of subdivision (a), the “homeowner’s
16 responsibilities and liabilities” means all rents, utilities,
17 reasonable maintenance charges of the mobilehome and
18 its premises, and reasonable maintenance of the
19 mobilehome and its premises pursuant to existing park
20 rules and regulations.

21 (d) In the event the homeowner files for bankruptcy,
22 the periods set forth in this section are tolled until the
23 mobilehome is released from bankruptcy.

24 (e) Notwithstanding any other provision of law,
25 including, but not limited to, Section 18099.5 of the Health
26 and Safety Code, in the event neither the legal owner nor
27 a junior lienholder, if any, notifies the management of its
28 decision pursuant to subdivision (a) within the period
29 allowed, or performs as agreed within 30 days, the
30 management may either remove the mobilehome from
31 the premises and place it in storage or store it on its site.
32 In this case, notwithstanding any other provision of law,
33 the management shall have a warehouseman’s lien in
34 accordance with Section 7209 of the Commercial Code
35 against the mobilehome for the costs of dismantling and
36 moving, if appropriate, as well as storage, which shall be
37 superior to all other liens, except the lien provided for in
38 Section 18116.1 of the Health and Safety Code, and may
39 enforce the lien pursuant to Section 7210 of the
40 Commercial Code.

(f) All written notices required by this section shall be sent to the other party by certified or registered mail with return receipt requested.

~~SEC. 3. Section 1812.601 of the Civil Code is amended to read:~~

~~1812.601. (a) "Advertisement" means any of the following:~~

~~(1) Any written or printed communication for the purpose of soliciting, describing, or offering to act as an auctioneer or provide auction company services, including any brochure, pamphlet, newspaper, periodical, or publication.~~

~~(2) A telephone or other directory listing caused or permitted by an auctioneer or auction company to be published that indicates the offer to practice auctioneering or auction company services.~~

~~(3) A radio, television, or similar airwave transmission that solicits or offers the practice of auctioneering or auction company services.~~

~~(b) "Auction" means a sale transaction conducted by means of oral or written exchanges between an auctioneer and the members of his or her audience, which exchanges consist of a series of invitations for offers for the purchase of goods made by the auctioneer and offers to purchase made by members of the audience and culminate in the acceptance by the auctioneer of the highest or most favorable offer made by a member of the participating audience. However, auction does not include the following:~~

~~(1) A wholesale motor vehicle auction subject to regulation by the Department of Motor Vehicles.~~

~~(2) A sale of real estate or a sale in any sequence of real estate with personal property or fixtures or both in a unified sale pursuant to subparagraph (ii) of paragraph (a) of subdivision (4) of Section 9501 of the Commercial Code.~~

~~(3) A warehouseman's lien sale conducted pursuant to Section 7210 of the Commercial Code.~~

~~(c) "Auction company" means any person who arranges, manages, sponsors, advertises, accounts for the~~

~~1 proceeds of, or carries out auction sales at locations,
2 including, but not limited to, any fixed location, including
3 an auction barn, gallery place of business, sale barn, sale
4 yard, sale pavilion, and the contiguous surroundings of
5 each.~~

~~6 (d) “Auctioneer” means any individual who is
7 engaged in, or who by advertising or otherwise holds
8 himself or herself out as being available to engage in, the
9 calling for, the recognition of, and the acceptance of,
10 offers for the purchase of goods at an auction.~~

~~11 (e) “Employee” means an individual who works for an
12 employer, is listed on the employer’s payroll records, and
13 is under the employer’s control.~~

~~14 (f) “Employer” means a person who employs an
15 individual for wages or salary, lists the individual on the
16 person’s payroll records, and withholds legally required
17 deductions and contributions.~~

~~18 (g) “Goods” means any goods, wares, chattels,
19 merchandise, or other personal property, including
20 domestic animals and farm products.~~

~~21 (h) “Person” means an individual, corporation,
22 partnership, trust, including a business trust, firm,
23 association, organization, or any other form of business
24 enterprise.~~